

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19049
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting property tax reduction benefits for 2005. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the contents of that file.

All property within the jurisdiction of this state is subject to property taxes. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of a payment of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income--the greater the income, the smaller the benefit.

[Redacted] (petitioner) filed an application for a property tax reduction benefit with [Redacted] County on April 8, 2005. The application shows the petitioner qualifies for the benefit because he is recognized as disabled by the Social Security Administration. The petitioner listed \$13,620 of income from Social Security and medical expenses of \$653.

Pursuant to Idaho Code § 707(5), the staff reviewed the application and compared it with the petitioner's federal income tax return. The tax return listed Social Security of \$86,317 with \$5,729 of the amount as taxable. The federal adjusted gross income was reported to be \$6,028. The staff sent the petitioner a notice advising him of the intent to deny his benefit.

The petitioner protested the intended action stating that he received an extra \$57,000 from

the Social Security Administration. He said he has been asked to return the overpayment, but the final settlement amount has not been determined. He included a copy of a letter he received from the Social Security Administration dated August 20, 2005. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5) as follows:

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, **all payments received under the federal social security act** except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity

compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. **"Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed.** Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099. (Emphasis added.)

For the purpose of the property tax reduction benefit, the calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The Code defines income in such a way that each year's income is independent of any other year.

In the petitioner's appeal letter, he explained that in 2004 he received an overpayment of \$57,000 from Social Security who is now asking for the overpayment to be returned. In the Social Security Administration's correspondence to the petitioner, the amount of the overpayment is shown as \$56,137. The petitioner's attorney is negotiating with the Social Security Administration to return only \$52,000 of the overpayment.

Clearly, a portion of the money shown as received by the petitioner during 2004 was paid to him in error and must be returned. However, debating whether the overpayment should be considered income to the petitioner for 2004 is not necessary. The petitioner received \$86,317 from the Social Security Administration during 2004. Even if the entire \$56,137 overpayment had been repaid in 2004 and not included in income for income tax purposes or the purpose of this benefit, the

petitioner is left with a Social Security disability benefit of \$30,180 for tax year 2004 that he was entitled to receive and did receive.

When the petitioner's \$653 of reported medical expenses are deducted from the \$30,180, the petitioner's total net income for property tax reduction benefit purposes would be \$29,527 without including the overpayment or his reported federal adjusted gross income. The petitioner's income for 2004 exceeds the \$22,040 maximum allowed for an applicant to qualify for a minimum benefit. The petitioner must be denied the 2005 property tax reduction benefit.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the applicant for property tax reduction in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Benefits letter dated September 21, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]

[REDACTED]
